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The League and the Chaco Dispute

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The League and the Chaco Dispute

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*with the aid of the Research Staff of the Foreign Policy Association
and in cooperation with the Geneva Research Center*

EARLY ATTEMPTS AT SETTLEMENT

The low alluvial plain of El Chaco Boreal, lying between the Pilcomayo and Paraguay rivers, has long been a cause of dispute between Bolivia and Paraguay.¹ Aside from certain reported oil deposits, the territory apparently has few resources. Bolivia considers control of the Chaco essential because it commands the Paraguay river—Bolivia's outlet to the Atlantic; while Paraguay, only one-eighth as large as Bolivia, regards the disputed area as a natural and essential field for expansion.

Both countries claim the Chaco through titles granted by Spain before the Spanish colonies began their struggle for independence in 1810. Paraguay insists that legal titles must also be supported by acts of possession prior to 1907 when the two countries agreed to abide by the *status quo* of that date, pending settlement of the frontiers. Both Bolivia and Paraguay have accused each other of failure to observe the 1907 *status quo*, and of penetrating the Chaco beyond the lines specified at that time.

Until the beginning of the twentieth century, Bolivia made no attempt to colonize the Chaco, which is separated from the high plain of Bolivia proper by some thousand miles; and colonizing efforts since 1906 have been limited mainly to construction of military outposts.²⁻³ Paraguay, however, has colonized and developed part of the Chaco with the aid of foreign capital, largely Argentine.⁴

1. For a detailed account of the background of the Chaco conflict and earlier efforts at settlement, cf. Russell Cooper and Mary Mattison, "The Chaco Dispute: The Development and Phases of the Bolivia-Paraguay Conflict and League Intervention," *Geneva Special Studies*, Vol. V, No. 5, 1934 (Geneva, Geneva Research Center).

2-3. J. C. deWilde, "South American Conflicts: The Chaco and Leticia," *Foreign Policy Reports*, May 24, 1933, pp. 5-9. Cf. also Enrique Finot, *Nuevos Aspectos de la Cuestión del Chaco* (La Paz, Editorial, "Renacimiento," 1931), p. 11.

4. Cattle-raising and the cutting of quebracho wood are the chief industries, almost entirely controlled by Argentines. Cf. *La Prensa* (Buenos Aires), August 13, 1932.

Disagreement over the extent of territory to be submitted to arbitration has prevented settlement of the claims to date. Bolivia has insisted on defining the region to be adjudicated in such a way as to secure beforehand a large portion of the Chaco, and to include in arbitration the zone awarded Paraguay by President Hayes in 1878.⁵⁻⁶

Between 1918 and 1927, both countries advanced beyond their 1907 positions. In December 1928 incidents at Vanguardia and in the Boquerón sector between Bolivian and Paraguayan forces brought the conflict to the attention of the League Council, in session at Lugano, and the International Conference of American States on Conciliation and Arbitration at Washington.⁷ The 1928 incidents were settled in September 1929 by a conciliation commission set up by the Conference of American States.⁸ The commission returned Vanguardia to Bolivia and Boquerón to Paraguay, blamed Paraguay for "coercive measures" which had resulted in the clash,⁹ but disbanded without having settled the basic territorial dispute.

Although the five nations represented on the commission, under the leadership of the United States, renewed their efforts at mediation in October 1929, they did not get representatives of Bolivia and Paraguay to come to Washington for negotiations until November 1931. Bolivia consented only on condition that negotiations be limited to a non-aggression pact,¹⁰ which was presented to the two

5-6. Cf. *Proceedings of the International Conference of American States on Conciliation and Arbitration*, held at Washington, December 10, 1928 to January 5, 1929 (Washington, Government Printing Office, 1929), pp. 957, 1140.

7. League of Nations, *Report of the Chaco Commission*, cited, p. 23.

8. The United States, Colombia, Cuba, Mexico and Uruguay were members of the commission.

9. *Proceedings of the Commission of Inquiry and Conciliation, Bolivia and Paraguay* (Washington, 1929), p. 80.

10. League of Nations, *Report of the Chaco Commission*, cited, p. 25.

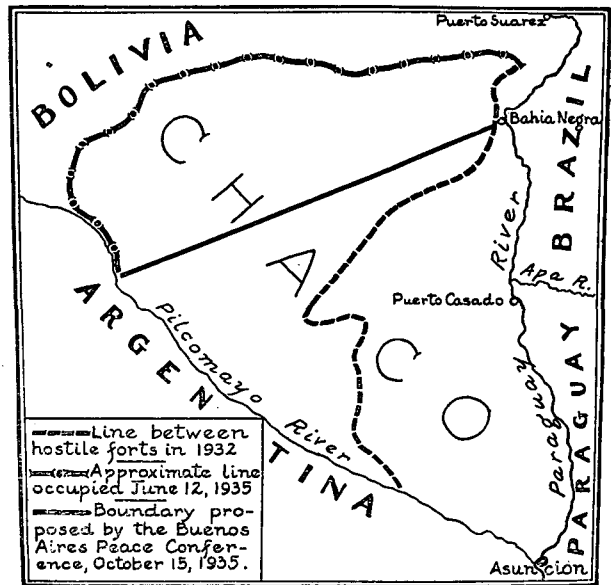
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states by the Commission of Neutrals. Before action could be taken on this proposal, a reported Bolivian attack on the Paraguayan post of Lopez on June 15, 1932 resulted in Paraguay's withdrawal from the conference. Although the Paraguayan delegates returned to the conference on July 20, Bolivia withdrew four days later, and neutral efforts to settle the dispute were frustrated.¹¹⁻¹² War broke out immediately, but was not formally declared by Paraguay until May 1933.

After hostilities began, efforts to restore peace were characterized by great confusion. For a time the Washington Commission of Neutrals continued its mediatorial rôle. In August 1932 it sought and obtained the support both of the League of Nations and all the neutral American nations. The nineteen American countries addressed a common appeal to Bolivia and Paraguay, including a warning that they would not "recognize any territorial arrangement which has not been obtained by peaceful means nor the validity of territorial acquisitions which may be obtained through occupation or conquest by force of arms."¹³

Failure of the Commission of Neutrals to settle the conflict led to increasing criticism. The four states bordering on the belligerents—Argentina, Brazil, Chile and Peru—showed an increasing inclination to intervene. On August 6, 1932 they published a declaration inviting Bolivia and Paraguay to settle their differences by conciliation. Although these states still pledged their support to the Commission of Neutrals, they refused to co-operate in its appeal for concerted coercive action.¹⁴ In November 1932 the Argentine Foreign Minister, Dr. Saavedra Lamas, addressed a caustic note to the Assistant Secretary of State of the United States, openly accusing the Neutral Commission of using the Monroe Doctrine to prevent action by the League of Nations, of which both Bolivia and Paraguay were members.¹⁵ The League had, in fact, not assumed jurisdiction over the dispute partly because of reluctance to interfere with the Commission of Neutrals, and partly because the belligerents failed to invoke its aid. In September 1932 the League Council took its first active step by appointing a Committee of Three to follow the dispute. This committee repeatedly proffered its support and cooperation to the Washington



Commission, but met with rather discouraging responses.¹⁶

In December 1932 the Commission of Neutrals submitted a comprehensive peace proposal to the belligerents, but Paraguay rejected the plan and withdrew its representatives from Washington. The commission appealed to the ABCP powers for suggestions as to further action, and the Foreign Ministers of Argentina and Chile proceeded to draft a peace plan which implied strong support of American methods in settling American conflicts.¹⁷ This proposal, presented to the belligerents with the approval and support of Brazil and Peru, also failed of acceptance.¹⁸

Following the Paraguayan declaration of war on May 10, 1933, the League Council outlined a basis for negotiations which was subsequently rejected by Bolivia. Finally, in June 1933, both countries agreed to accept a League inquiry. The Commission of Neutrals withdrew in order that "negotiations can be centered in Geneva . . . allowing the League Committee to work with universal support for peace."¹⁹⁻²¹

FAILURE OF AMERICAN PEACE EFFORTS

The efforts of the American states had failed to settle the dispute or prevent war. Rivalry between

11-12. *Ibid.*, pp. 25-26.

13. U. S., Department of State, *Press Releases*, August 3, 1932.

14. *La Prensa*, November 23, 1932.

15. Dr. Saavedra Lamas declared that the League should be able to act "without finding an obstacle in regional or continental doctrines, which for our part," he said, "we believe it necessary to affirm, have neither the adhesion of Argentina nor a sanction created by the unanimous will of the countries of the continent." *Ibid.*

16. Russell M. Cooper, *American Consultation in World Affairs* (New York, Macmillan, 1934), pp. 142-43.

17. Dr. Saavedra Lamas called the conference decision constituting the ABCP powers as a "new organ of pan Americanism" a very important step. *La Prensa*, February 3, 1933; *New York Times*, February 4, 1933.

18. League of Nations, *Report of the Chaco Commission*, cited, p. 30.

19-21. U. S., Department of State, *Press Releases*, June 27, 1933, p. 1.

the Commission of Neutrals and the ABCP powers, and vacillation between a policy designed to regulate American disputes by American machinery and one inclining toward League intervention had hampered all attempts at settlement. Bolivia and Paraguay were under no obligation to accept the mediation or arbitration of any American group or court, since either one or the other had failed to ratify the Pan American conciliation and arbitration treaties. The Covenant of the League of Nations was the only treaty binding upon both, yet League intervention had been postponed time and again on the plea that American nations had not exhausted all efforts at mediation.

A League Commission of Inquiry was finally set up in Montevideo on November 3, 1933, and carried on investigation through March 14, 1934. With the cooperation of the Pan American Conference then in session at Montevideo,²² a truce was declared in December, but the League commission failed to draw up an agreement satisfactory to both states and war was resumed in January. The report of the commission²³ set forth the geographical and historical aspects of the dispute, proposed a comprehensive settlement and recommended imposition of a League embargo on arms shipments to the disputants. After adopting the commission's report at its May meeting, the Council approved a British proposal to ask if the governments were prepared to impose an arms embargo.²⁴ Replies of the member states were favorable, and Germany and the United States also agreed to prohibit shipments of arms and war materials to Bolivia and Paraguay.

Bolivia at once protested that the proposed dual embargo would shut off its arms supply completely, without in any way affecting that of Paraguay owing to the latter's control of the internationalized Paraguay river.²⁵ Hoping to have Paraguay declared the aggressor and sanctions applied, Bolivia invoked, first, Article XII and then Article XV. The summer of 1934 was marked by Paraguay's rejection of the League report, further abortive efforts at conciliation by the League and the American states, and unreserved application by twenty-seven states of the embargo on arms and war material intended for Bolivia and Paraguay.

On July 9, 1934 the Paraguayan government, in a letter to the Secretary-General of the League, set

forth its observations on the report of the Chaco commission, which amounted to a rejection. The letter and accompanying documents reviewed the dispute in detail, asserting that the commission had dealt with it in too summary a fashion and had stressed the Bolivian point of view. One of the major issues—responsibility for the war—had not been settled by the commission, and the entire report, according to Paraguay, was motivated by a desire to defend the commission's draft treaty, excuse Bolivia, and blame Paraguay for the breakdown of negotiations.²⁶

The undercurrent of rivalry among the mediators, which had been evident throughout the negotiations, came very near the surface during the summer months of 1934. Renewed efforts of the ABCP states to negotiate a settlement were frustrated, this time by Paraguay's opposition, which was based on the allegedly unneutral attitude of Chile in allowing Chilean officers to serve in the Bolivian army. Paraguay regarded this issue so seriously that it broke off relations with Chile in June.²⁷ On July 12, 1934 Argentina, Brazil and the United States proposed another peace plan to the two countries, which was accepted in principle; but when the "moment came to define their acceptance of principle, the same divergence of views reappeared on either side."²⁸

LEAGUE EFFORTS AT CONCILIATION

Before analyzing further the League's methods to bring the Chaco war to an end, it would be well to review the divergences which caused the failure of all peace negotiations. Without going into the question of the sovereignty of the Chaco, about which both governments have published volumes²⁹ and with which the report of the Chaco Commission deals at length, the disagreement over ways and means of concluding peace can be summarized briefly.

The fundamental issue to Paraguay, which claimed ownership of the Chaco, was the frontier line between the two countries, and to Bolivia, which disputed the Paraguayan claim, the ownership of the territory. Thus the most serious difference was the unwillingness of each to accept the

26. League of Nations, *Official Journal*, November 1934, p. 1539.

27. They were resumed in September.

28. Cf. speech of M. Cantilo (Argentina) before the Assembly, September 14, 1934. League of Nations, *Dispute between Bolivia and Paraguay*, 1934-35, *Archives*, pp. 8-10.

29. For the best presentation of the Bolivian case, cf. *Conflicto del Chaco* (La Paz, Ministry of Foreign Relations, Memoria of 1934); for the Paraguayan case, cf. *Exposición de la Causa del Paraguay en su Conflicto con Bolivia* (Asunción, Ministry of Foreign Relations, 1934).

22. The feeling current in Latin American countries that the United States was inimical to their interests and intent upon increasing its power was dispelled by Secretary Hull at the Montevideo Conference in December 1933. Cf. addresses and statements by the Honorable Cordell Hull in connection with his trip to South America in 1933-1934 (Washington, 1933).

23. League of Nations, *Report of the Chaco Commission*, cited.

24. League of Nations, *Official Journal*, July 1934, p. 766.

25. *Ibid.*, pp. 841-42. *New York Times*, June 10, 1934.

other's definition of the underlying cause of conflict.

The factor of cessation of hostilities was equally deterrent to successful negotiation. Paraguay insisted on suspension of hostilities and adequate guarantees against renewal before conclusion of a treaty; Bolivia maintained that hostilities could not stop prior to settlement of the substantive question. The eastern Chaco, easily accessible to Paraguay, is remote from the center of Bolivia; hence withdrawal of armies would mean virtual control of the territory for the former, and complete loss for the latter. Moreover, each had confidence in the ultimate success of its army and refused one offer after another, hoping the next would be more satisfactory. Political instability in the two countries also added to the difficulties. Neither government dared grant too many concessions for fear of revolution.³⁰

With the exception of the Leticia dispute between Colombia and Peru, the League had not previously intervened in conflicts on the American continent. Active participation of American states in the League depended, and depends, more on the personality and influence of their representatives in Geneva than on any vital concern with a predominantly European peace machine. European members with no large interests to protect would scarcely take the initiative in the face of such indifference. American states were aware that if the League named the aggressor and applied sanctions in the Chaco war, the execution, particularly in the case of military sanctions, would fall on them. Whether for this reason or for reasons of prestige, many American states were not only reluctant to see League action taken, but for some time actually prevented that body from assuming jurisdiction.³¹

On June 9, 1934 Bolivia invoked Article XV of the Covenant and within the prescribed two weeks asked to have the dispute referred to the Assembly. The Council and the Committee of Three, which had been following developments of the conflict, approved this procedure. The Assembly, meeting in September, referred the question to its Sixth (Political) Committee. Paraguay objected to the application of Article XV, claiming the provisions of the Article did not cover a case where war had already broken out and conciliation been attempted. It preferred conciliation under Article XI, and recourse to the Permanent Court of International Justice.³²⁻³³ The First (Legal) Assembly Committee

was asked whether Article XV, paragraph 4, could apply when war had been officially declared, and when the Council had already taken cognizance of the question in virtue of Article XI. The Legal Committee decided that the words, "likely to lead to a rupture," on which Paraguay based its objections to Article XV, merely excluded disputes not of a serious nature, and that the Paraguayan literal interpretation would mean that a state could evade the application of sanctions by declaring war.³⁴

The Assembly discussed the arms embargo proposed by Great Britain in the June Council. Although a majority of League members, as well as many non-members, had already prohibited shipments of arms and war materials to the belligerents, these measures had been taken by the governments individually rather than on formal League recommendation.³⁵ The Italian delegate objected to the embargo on the ground that the Covenant does not authorize the prohibition of arms to both parties to a dispute, but only to the aggressor.³⁶ This question also was referred to the Legal Committee, which discussed all aspects of embargoes. Interestingly enough in the light of subsequent events in Africa, the Italian member outlined the historical uses of embargo, the problems of final destination, inspection in transit, as well as the necessity of applying an embargo to one party—the aggressor.³⁷ The final decision of the Legal Committee, embodied in the Assembly resolution, stressed the fact that to date the embargo had been imposed by individual states "acting lawfully in the exercise of their sovereignty . . . actuated by . . . general interest to put an end to a war . . ." and that steps towards collective action might be taken by the Assembly.³⁸ Should the Assembly wish to make the embargo "collective," the committee advised appointment of a special committee to study the delicate and complicated legal point raised in applying it to both belligerents.

The Assembly then adopted a resolution, on September 27, 1934, calling for conciliation under paragraph 3, Article XV. This task was entrusted to a committee composed of the Council members, together with Colombia, Peru, Chile, Uruguay,

34. *Ibid.*, *Opinion of the First Committee and Applicability in its Entirety of Article XV of the Covenant to the Dispute between Bolivia and Paraguay*, pp. 166-67.

35. For an analysis of the first stage of the embargo, cf. Cooper and Mattison, "The Chaco Arms Embargo," cited. By August 1, 1934 twenty-eight states had embargoed arms shipments; six others had declared their willingness to impose an embargo contingent upon the acceptance of certain other states (e.g., Uruguay agreed providing the neighboring countries did so).

36. League of Nations, *Official Journal, Special Supplement No. 124*, cited, p. 72.

37. *Ibid.*, pp. 43-44.

38. *Ibid.*, pp. 165 ff.

30. DeWilde, "South American Conflicts: The Chaco and Leticia," cited, pp. 60 ff.

31. *Ibid.*, p. 59.

32-33. League of Nations, *Official Journal, Special Supplement No. 124*, cited, pp. 11 ff.

Venezuela, China, the Irish Free State and Sweden.³⁹ If conciliation failed, the committee was to draw up a report containing a statement of the facts of the dispute, recommendations for its settlement, and any further measures for arms prohibition that might prove necessary.

The twenty-nine members of the committee met for the first time on September 29. It had been suggested that the United States and Brazil collaborate in its work, since both had taken an active part in the settlement of the Leticia dispute between Peru and Colombia.⁴⁰ The United States, however, declined to be represented on the Assembly committee, and Brazil also refrained. Paraguay, after demanding that the committee treat as two distinct questions cessation of hostilities and settlement of the substantive question, finally accredited a representative on November 2, six weeks after the committee had begun work.⁴¹

As soon as both parties were represented, a sub-committee under M. Najero of Mexico heard the two cases. Despite pressure by the committee and exchange of telegrams, Bolivia and Paraguay persisted in their attitudes. The committee decided to abandon further negotiation for the moment, and on November 12 drew up a report to be submitted to an extraordinary session of the Assembly convoked for November 20.

THE ASSEMBLY RECOMMENDATIONS

The extraordinary session of the Assembly adopted the committee's report on November 20. Divided into six parts, the report covered the history of the dispute and the recommendations for its settlement. The first part attributed the conflict to the fact that no common frontier had ever been fixed between the two countries, and that hostilities had been the "inevitable impact of two movements of occupation in the Chaco," Paraguay moving north and west, Bolivia south and east.⁴² The kernel of the report, Part IV, contained the recommendations subsequently adopted by the Assembly for final settlement of the dispute. Both Paraguay and Bolivia were called severely to task for failure

to appeal to the League immediately on the outbreak of war, under either Article XI or XV. The Assembly was "therefore bound to record that neither of the Parties has fulfilled its undertakings under Article IV of the Covenant."⁴³

The recommendations proposed cessation of hostilities and settlement of the substantive question. Following acceptance by Bolivia and Paraguay of the report *in toto*, the Secretary-General of the League was to notify the two powers, and hostilities were to cease within six days. A supervisory commission, consisting of representatives of ABCP powers, Uruguay and the United States,⁴⁴ was to superintend withdrawal of both armies on the spot. The commission was to determine a zone from which both armies were to be withdrawn within ten days from the suspension of hostilities. The supervisory commission was to take measures designed to insure maintenance of peace but, in event of dissatisfaction on the part of either Bolivia or Paraguay, questions of security were to be referred finally to arbitration.

For the final delimitation of the frontier a peace conference was to be convened within one month after the cessation of hostilities. Representatives of adjacent states, states represented on the Washington Commission of Neutrals, Ecuador, Venezuela, and the two parties were to participate. If at the end of two months, the frontier had not been fixed by the conference, direct negotiation, or arbitration, the report provided that the question be referred to the Permanent Court of International Justice on the basis of the Declaration of American Nations of August 1932 and the principle of the *uti possiditis* of 1810 which both Bolivia and Paraguay had accepted at the Buenos Aires conference in 1928. The economic clauses of the definitive peace treaty—i.e., provisions dealing with the question of indemnity, navigation of the Paraguay river, commercial and trade matters, and transit problems—were also to be drawn up by the conference. In event of failure to reach agreement on these matters, a special committee of experts appointed by the League Council was to take up the task and, in case their decisions failed of acceptance, the Court was to give a decision on the economic clauses. The time limits set in the report could be extended only on agreement of both parties.

With reference to the arms embargo, the committee's report urged that in view of the failure of

39. The members of the Council at that time were: Argentina, Australia, the United Kingdom, Chile, Czechoslovakia, Denmark, France, Italy, Mexico, Poland, Portugal, the Union of Soviet Socialist Republics, Spain and Turkey.

40. The United States acted under the Kellogg Pact, which both parties had ratified.

41. League of Nations, *Official Journal, Special Supplement No. 132*, cited, pp. 47 ff.

42. Cf. report as provided for under Article XV, paragraph 4 of the Covenant, drawn up by the Committee of the Assembly in Pursuance of the Resolution of September 27, 1934, and adopted by the Assembly on November 24, 1934. League of Nations, *Official Journal, Special Supplement No. 132*, cited.

43. *Ibid.*, p. 48.

44. Inasmuch as the commission would be composed of "representatives of American states meeting on American soil," the United States indicated that it would designate a member to this body. Cf. U. S., Department of State, *Press Releases*, December 1, 1934.

conciliation, the Assembly adopt the following resolution:

"The Assembly, having regard to the exceptional circumstances of the present case, and without in any way creating a precedent, approves, as one of the measures to obtain and maintain cessation of hostilities, the prohibition of supply of arms and war material to Bolivia and Paraguay, and it recommends to the members of the League of Nations in the subsequent decisions which they may have to take as regards the maintenance, possible modification or withdrawal of such prohibition, to have regard to the action taken by each of the Parties upon the Assembly's recommendations. . . ."⁴⁵

Since no attempt had been made to define the aggressor, Turkey, supported by Poland, France and Italy, asked that the phrase "and without in any way creating a precedent" be added lest the double embargo create a dangerous precedent for the League.⁴⁶⁻⁴⁷

Although the committee urged the continuation and strict enforcement of the embargo, it failed to recommend any steps to secure uniform observation. For example, in December 1934, the British government drew the committee's attention to the fact that both parties were still receiving munitions. Chile, where the first Belgian shipment landed, informed the committee that it regarded the embargo and transit of arms as two different questions.⁴⁸ Uruguay replied in the same vein, noting that the "question of transit of arms has not yet been defined either by the Assembly or by the Council."⁴⁹ The replies of many governments to the original arms embargo proposal had been vague; some had accepted the proposal but had failed to inform the Committee whether the embargo was actually in force; and others had delayed pending action by certain specified states. By the end of the year approximately thirty-three states had imposed embargoes, and six others had accepted the idea in principle but had taken no action to prohibit shipment due to the fact that they were not arms manufacturing states.⁵⁰

PARAGUAY REJECTS LEAGUE SETTLEMENT

The Assembly, in accepting the report of its committee, set up another committee to assist League members in coordinating their action on

the arms embargo, and likewise to recommend any possible modification or withdrawal of the prohibition whenever Bolivia and Paraguay accepted the recommendations. This new committee, termed the Advisory Committee, consisted of the same members as the previous committee, with the addition of Ecuador.⁵¹ The United States refused to participate on the ground that this body was concerned mainly with a breach of the Covenant, to which it was not a party. The Brazilian government declined for the same reason, although assuring the League of the "loyal and disinterested cooperation of the Brazilian Government."⁵² The United States authorized its Geneva representative, Mr. Prentiss Gilbert, to "maintain informal contact with the members of the Advisory Committee for purposes of information."⁵³ Both governments, however, indicated their willingness to take part in the proposed peace conference at Buenos Aires.⁵⁴

On December 10 the Bolivian government, at that time considerably embarrassed by Paraguay's overwhelming victories, and disturbed by internal disorder, informed the Secretary-General that it accepted without reservations the settlement proposed in the Assembly report.⁵⁵ Paraguay, whose forces had occupied the entire Chaco and penetrated Bolivia proper, delayed on the pretense of consulting military experts on the military clauses in the report. On December 18 the Paraguayan answer characterized the recommendations of the Assembly as "impracticable" for the following reasons:

1. The plan provided merely for a "lengthy armistice" with no guarantee against fresh outbreak of hostilities;
2. The time limits set, with the armies still on a war footing, were not conducive to a permanent settlement;
3. The report did not include provision for return of prisoners, which Paraguay could not agree to until the conclusion of a definite peace;
4. The formula proposed for the submission of the substantive question would convert a boundary problem into a territorial question. Paraguay would not accept an arbitral award on this question or on the economic questions;

45. League of Nations, *Official Journal, Special Supplement* No. 132, cited, p. 51.

46-47. *Ibid.*, pp. 25-27. The original resolution did not contain this phrase.

48. *Ibid.*, p. 82.

49. *Ibid.*, p. 83.

50. These were: Union of South Africa, Argentina, Bulgaria, Colombia, Ecuador and Estonia.

51. League of Nations, *Official Journal, Special Supplement* No. 132, cited, p. 51. Ecuador became a member of the League in 1934.

52. Brazil had withdrawn from the League in 1926 in a disagreement over a permanent Council seat.

53. U. S., Department of State, *Press Releases*, November 17, 1934.

54. League of Nations, *Official Journal, Special Supplement* No. 132, cited, pp. 78-79.

55. *Ibid.*, pp. 73-74.

5. The constitution of Paraguay rendered invalid acceptance of the recommendations without the vote of Parliament;
6. No provision was made for determination of war guilt;
7. The report unjustly accused Paraguay of having violated the Covenant by not appealing to the League.
8. Paraguay declared its sole object was to cooperate in the establishment of a plan which would insure the final cessation of hostilities and negotiations for peace in an atmosphere favorable to a reasonable and just settlement.⁵⁶

The committee immediately replied that it did not regard the reasons given by Paraguay as valid. It pointed out that the cessation of hostilities was to be definitive, that the time limits were capable of extension and that the submission of the question to the Permanent Court was envisaged only in case direct negotiations should fail. In the committee's opinion, the Paraguayan Parliament could accept the recommendations since they did not attempt to settle the substance of the dispute, and other questions, including that of prisoners, could be submitted to the peace conference. In view of a meeting of the committee scheduled for January 14, Paraguay was requested to communicate its "final reply" by that date.⁵⁷

The Advisory Committee, after considering the Paraguayan reply, unanimously recommended on January 16, 1935 that governments lift the embargo on arms shipments to Bolivia.⁵⁸ No mention was made of Article XVI, under which sanctions may be applied, but the recommendation implied that Paraguay should be considered the aggressor. Under Article XII of the Covenant, League members agree not to resort to war until three months after a report by the Council or the Assembly. The three months would expire on February 24, 1935 and to all intents and purposes, Bolivia would then be free to enjoy the rights of a belligerent against Paraguay as the aggressor. There is some question as to whether rejection of the Assembly recommendations automatically put Paraguay in the position of aggressor. Curiously enough, no League member raised any objection to lifting the dual embargo although both Uruguay and Norway continued to prohibit shipment to both countries.⁵⁹

56. *Ibid.*, pp. 75-77.

57. *Ibid.*, pp. 77-78.

58. League of Nations, *Official Journal, Special Supplement No. 133, Dispute between Bolivia and Paraguay. Appeal of the Bolivian Government under Article XV of the Covenant, 1935*, p. 49.

During February eleven states lifted the arms embargo on Bolivia, including four of the principal arms manufacturing countries: Sweden, France, the United Kingdom and Czechoslovakia. The one-sided arms ban proved no more effective than the previous embargo, since Argentina, apparently well disposed toward Paraguay, maintained that it could do nothing to prevent shipments from reaching that country through the internationalized Paraguay river.⁶⁰ The embargo did result, however, in the withdrawal of Paraguay from the League and a feeling of resentment in some Latin American countries that Paraguay should have been dealt with more harshly than Japan.

CHACO DISPUTE ENTERS NEW PHASE

On February 24, 1935 M. Luis A. Riart, Minister for Foreign Affairs of Paraguay, informed the Secretary-General of Paraguay's intention to withdraw from the League. This decision was based upon three grievances: refusal of the League to determine responsibility for the war; raising of the arms embargo in favor of Bolivia, and thus converting "an indirect means of stopping war into a sanction against one of the belligerents"; and finally the committee's interpretation of the Paraguayan answer as a rejection of the League recommendations. This interpretation, the Paraguayan government declared, constituted "an arbitrary act against which there is no appeal."⁶¹

When the Advisory Committee met on March 11, 1935, the Secretary-General raised the question of the legal consequences of Paraguay's withdrawal, and the possibility of applying Article XVI. From the discussion it became evident that any further measures such as sanctions could be applied only after action had been taken to determine the aggressor.⁶² In this connection it was pointed out that the embargo imposed by League members and non-members was a political measure designed to assist in the re-establishment of peace, rather than a legal measure, and that the embargo had since been lifted in favor of one of the parties before the expiration of the three months allowed by the Covenant.

59. The United States also maintained the dual embargo, and no Latin American member of the League raised the embargo against Bolivia.

60. Whitney H. Shepardson, and William O. Scroggs, *The United States in World Affairs, 1934-35* (New York, Harper, 1935), p. 137.

61. League of Nations, *Official Journal, Special Supplement No. 134, Dispute between Bolivia and Paraguay. Appeal of the Bolivian Government under Article XV of the Covenant, 1935*, p. 49.

62. Cf. speech of M. Cantilo (Argentina) in Advisory Committee, March 11, 1935, *ibid.*, p. 8 ff.; and speech of Mr. Osusky (Czechoslovakia), *ibid.*, p. 21.

Three different proposals were brought forward. The first, introduced by the representative of the Soviet Union, favored immediate application of sanctions on the basis of Paraguay's rejection of the recommendation. The second, sponsored by Italy, urged that the question be referred to the Permanent Court, as sanctions could not be applied until the original aggressor had been named. The French delegate, M. Massigli, opposed the first two suggestions and proposed that the South American states recommend the next steps to be taken, on the ground that immediate cessation of hostilities was the real objective of the League. This last suggestion constituted retrogression in the eyes of the Soviets, with the danger that by attempting to find new bases for conciliation, other countries might be encouraged to follow Paraguay's example and "legalize" violation of their obligations by "sovereignly" withdrawing from the League.⁶³ It was evident at this time that the committee felt further conciliation attempts by the League futile; that the next logical step was the application of sanctions, preceded by determination of the aggressor. This procedure, however, raised many difficult points. Failure of both countries to submit the dispute in its initial stages to League jurisdiction constituted violation of the Covenant, and when the League finally assumed jurisdiction over the dispute, war had already broken out. Thus to the problem of determining the original aggressor was added a further question: whether one country, by accepting the recommendations of the League, could free itself from the onus of having violated the Covenant. If that was the case, continuation of war against this belligerent could be adjudged a violation of Article XII, leading to the application of sanctions. Many countries were unwilling to reach this conclusion probably because they felt that Bolivia's acceptance of the recommendations was due to its unfavorable military position rather than to its respect for international obligations.

Moreover the positions taken by the Latin American states made such procedure impracticable. While there was no one clear and well-defined Latin American attitude, it was evident that the majority of these states were reluctant to abandon their positions of neutrality. In the case of Argentina this was carried to the point of denying that there had been an original aggressor.⁶⁴ Chile concurred, and felt that application of sanctions would open the League to the criticism of using two weights and two measures, since sanctions

had not been applied in the more obvious case of Japan in 1931.⁶⁵ Argentina and Chile also disclosed that they had submitted to the belligerents a new plan substantially like the League's November recommendations. Ecuador, Peru, Venezuela and Colombia attempted to straddle, reluctant to proceed to definition of the aggressor, yet insisting on firmness on the part of the League.⁶⁶

In view of this divergence of opinion the committee decided to leave the determination of the League's future course to an extraordinary session of the Assembly, which it convoked for May 20. At the same time it expressed the hope that the belligerents might meanwhile accept the plan proposed by Argentina and Chile.

On May 9, 1935 Dr. Saavedra Lamas conferred in Buenos Aires with the Ambassadors of Brazil, Chile, Peru and the United States.⁶⁷ As a result an American group of mediators was set up, comprising the ABCP states, Uruguay and the United States. On May 18 both Bolivia and Paraguay agreed to send their Foreign Ministers to Buenos Aires. This marked the first time since the beginning of the war when representatives of the two belligerents accepted direct negotiations.⁶⁸ Encouraged by this progress the League Assembly, meeting on May 20, merely expressed the hope that mediation would be successful, and authorized the Advisory Committee to follow negotiations and report to the 1935 Assembly in September.

CESSATION OF HOSTILITIES

Negotiations in Buenos Aires were favored by the reversal of Paraguay's military fortunes. On April 16 Paraguayan troops had captured the Bolivian city of Charagua, but the Bolivian army in a powerful counter-offensive drove the Paraguayan troops well back into the Chaco.⁶⁹ By May the armies had reached a stalemate.

Since the time was propitious, the proposals of the American mediators met with success. Bolivia, however, insisted that the League be prepared to take action should the Buenos Aires conference fail.⁷⁰ The Foreign Ministers of Bolivia and Paraguay arrived in Buenos Aires at the end of May, and conversations were immediately begun with a view to ending the war. At the outset there was

65. *Ibid.*, pp. 13-14.

66. *Ibid.*, pp. 14-24.

67. *New York Times*, May 19, 1935.

68. *Ibid.*

69. *Ibid.*, April 17, 1935, *et seq.*

70. League of Nations, *Official Journal, Special Supplement No. 135, Dispute between Bolivia and Paraguay, Part I, Records of the Special Session of the Assembly, 1935*, p. 26.

63. League of Nations, *Official Journal, Special Supplement No. 134, 1935*, pp. 32 ff.

64. *Ibid.*, pp. 8-13.

disagreement as to the means to that end. Bolivia favored a thirty-day truce during which the peace terms could be agreed upon, while Paraguay wished definitive cessation of the war, immediate demobilization of troops and demilitarization of the entire Chaco under a guarantee by the mediating states.⁷¹ As a result of insistence on these views, negotiations collapsed on June 2.⁷² At the suggestion of Chile and with the persuasion of the other mediators, however, the belligerents again resumed negotiations on June 5. This time they discussed an armistice to be followed by submission of the entire dispute to the Permanent Court.⁷³ Another stumbling block was encountered when Bolivia insisted that the entire territory be included in the arbitral decision, while Paraguay maintained that the strip of the Chaco awarded it by the Hayes decision of 1878 be excluded.

Added to the disagreement between Bolivia and Paraguay, rivalry among the mediators again threatened negotiations. The Brazilian President had been accompanied to Buenos Aires by his Foreign Minister, while Chile was represented only by its Ambassador to Argentina. As one of the originators of mediation, Chile resented this slight and threatened to withdraw altogether. Such a tragedy was averted when the Argentine Foreign Minister, Dr. Saavedra Lamas, invited all mediating countries to send their Foreign Ministers to Buenos Aires. Chile, Peru and Uruguay accepted, but Secretary Hull, after conferring with the Ambassadors of Argentina, Brazil and Peru, announced that Hugh Gibson, United States Ambassador to Brazil, would represent the United States in his place.⁷⁴

When this diplomatic misunderstanding was straightened out, Bolivia sought assurance that arbitration would begin as soon as an armistice was declared, while Paraguay continued to demand guarantees that the armistice would be strictly observed and followed immediately by demobilization.⁷⁵ Proposals for a truce were drawn up, and M. Luis Riart, Paraguayan Foreign Minister, asked time to consider them. On the insistence of Mr. Alexander W. Weddell, United States representative until the arrival of Mr. Gibson, the two parties thrashed out their differences over the proposals,⁷⁶ and at noon on June 12 a Draft Protocol was signed. The provisions of the

Protocol called for complete suspension of hostilities on June 14 on the basis of the positions then occupied. Both armies were to be demobilized within ninety days, and a neutral military commission was to fix intermediate lines between the belligerent armies and supervise the intervening territory in order to guarantee peace until a treaty was actually signed.⁷⁷ The Neutral Military Commission, composed of two officers from each of the mediators, was set up on June 14 and divided into two groups, one stationed at Villa Montes, Bolivian army headquarters, the other at Ibamirante, on the Paraguayan side. The two parties agreed to submit their differences over exchange of prisoners as well as over the substantive question to a peace conference, which would also draw up economic and security clauses.⁷⁸ If the peace conference decided that no final settlement could be reached by direct negotiation, the two parties were to draw up an arbitration agreement. Setting no time limits and laying down no specific directions for procedure as the League recommendations had done, the Protocol skillfully avoided the main difficulties.

On June 22, 1935, following announcement by the mediators of the conclusion of the Protocol, the chairman of the League Advisory Committee notified the members of the League that in his opinion the embargo would "appear to be of no practical importance" since the two parties had bound themselves by the Protocol "to abstain from any acquisition of arms or war material."⁷⁹ By August 2 seventeen countries had raised the embargo on arms to Paraguay.⁸⁰

BUENOS AIRES CONFERENCE

By June 21 the Protocol had been ratified by both governments and the peace conference opened in Buenos Aires on July 1. After electing Dr. Saavedra Lamas permanent president, the conference proceeded to extend the truce *sine die* and to order immediate demobilization of the armies. Meanwhile, the work of the Military Commission was advancing with little friction. Barbed wire was torn down, trenches filled in, roads opened and farms restored to evicted Bolivians.⁸¹ The main road between Villa Montes and Santa Cruz, connecting the oil fields of the northern Chaco with Bolivia proper, was opened and, in the south, Paraguayan settlers returned to the former war area.⁸²

71. *New York Times*, June 3, 1935.

72. *Ibid.*, June 6, 1935.

73. *Ibid.*

74. *Ibid.*, June 7, 1935.

75. *Ibid.*

76. *Ibid.*, June 10, 1935. Dr. Saavedra Lamas, President of the Conference, notified the League of the truce. League of Nations, *Official Journal*, July 1935, p. 900.

77. *New York Times*, June 13, 1935.

78. *Ibid.*

79. League of Nations, *Official Journal*, July 1935, p. 906.

80. *Ibid.*, pp. 906-908; *idem*, September 1935, pp. 985-88.

81. *New York Times*, June 14, 1935.

82. *Ibid.*, June 4, 11, 1935.

In the conference itself the atmosphere was encouraging as long as the discussion remained general. In fact, both sides seemed ready to grant concessions. An exchange of student prisoners was discussed, as universities in both countries had been closed for two years. The generals of the two armies met with the Military Commission and agreed on demobilization procedure.⁸³ By the beginning of August, however, it became apparent that the controversial issues would not be immediately settled. On July 23 President Tejada Sorzano, of Bolivia, requested an adjournment of the conference until after August in view of Paraguay's unwillingness to thrash out differences over the substantive question. Tejada Sorzano's term of office was to end in August, and apparently he feared that any concession on his part would lead to serious internal difficulties.⁸⁴ Bolivia claimed a port on the Paraguay river south of Bahía Negra on the ground that its port, Puerto Suarez, considerably further up the river, was difficult to reach from Bolivia, and that the river at this point was unnavigable in the dry season.⁸⁵ Another issue which threatened negotiations concerned the exchange and repatriation of prisoners. Paraguay refused to release Bolivian prisoners until after a treaty had been concluded, whereas Bolivia demanded immediate and unconditional release. Paraguay preferred to settle all controversial points simultaneously, but was willing to release prisoner for prisoner at once. Such an arrangement meant little to Bolivia, which had only 2,500 prisoners against 25,000 held by Paraguay. The June Protocol called for the exchange of prisoners according to international law, which Paraguay claimed supported its case.⁸⁶ Paraguay claimed that it had already released the 10,000 civilian prisoners captured during the last months of the war.⁸⁷ Bolivia, on the other hand, had no civilian prisoners to exchange for those released by Paraguay, and charged that Bolivian prisoners were being subjected to hard labor in building roads. Exchange of prisoner for prisoner, according to Bolivia, would still leave 20,000 in Paraguay with no hope for the future.⁸⁸ After unsuccessful attempts at solution, the delegates to the conference departed in mid-August and left the problem to a special committee headed by Am-

bassador Gibson. To all appearances, efforts to negotiate had failed.

Preliminary negotiations having come to nothing, the generals of the two countries met in September. It was reported that they hoped to force peace by threats of military revolt. Nothing concrete resulted from this save ill feeling between the President of Bolivia and the Bolivian General Peñaranda del Castillo, arising from the belief that the latter was willing to forego acquisition of the port of Bahía Negra provided other concessions were granted.⁸⁹⁻⁹⁰ Early in September the Bolivian delegate, Señor Bautista Saavedra, was instructed to insist on repatriation of prisoners before discussing other questions. President Ayala of Paraguay termed this insistence "lack of cooperation" and accused Bolivia of striking a blow at peace.⁹¹ Ambassador Gibson, as chairman of the committee dealing with exchange of prisoners, vainly exerted his influence to secure a solution of the problem.⁹²

When the Assembly of the League of Nations met in September, no session of the peace conference had been held in over a month, but the report to the Political Committee of the Assembly on September 17 by M. Vasconcellos (Portugal), chairman of the Advisory Committee on the Chaco, was encouraging. He summarized the negotiations to date, and announced that since hostilities had ceased and demobilization begun, there was hope that a treaty would be signed shortly. The Advisory Committee had not been convened, he explained, since the peace conference had made a meeting unnecessary. League members had been notified that the arms embargo was no longer necessary.⁹³ The Assembly commended the Advisory Committee and the American states for their part in the negotiations and expressed the conviction that a final solution would be found even though progress might be slow.⁹⁴ In view of the fact that final settlement had not been reached, the Assembly decided to continue the Advisory Committee.⁹⁵ On October 21, however, Bolivia appealed

88. The deadlock, though discouraging, did not threaten resumption of hostilities, since 30,419 Paraguayan soldiers and 18,815 Bolivians had been demobilized by August 8, and both countries were economically too exhausted to consider such a move. *The Times*, September 3, 1935.

89-90. *New York Times*, September 11, 1935.

91. In a letter to the Paraguayan delegate, Havas, *Journal des Nations* (Geneva), September 17, 1935.

92. *New York Times*, September 22, 1935.

93. League of Nations, *Official Journal*, Special Supplement No. 143, *Records of the 16th Ordinary Session of the Assembly, Meetings of the Committees. Minutes of the Sixth Commission*, pp. 15-16.

94. *Ibid.*, *Report of the Sixth Committee to the Assembly*, p. 70.

95. *Ibid.*, p. 71.

83. *Ibid.*, July 16, 1935.

84. *Ibid.*, July 24, 1935.

85. *The Times* (London), September 3, 1935.

86. International law supports the Paraguayan contention that repatriation of prisoners is not obligatory prior to treaty signature. Cf. John Bassett Moore, *Digest of International Law*, 1913 edition, Vol. VII (§ 1128, 1129), pp. 221-228. Cf. also, *Convention respecting the Laws and Customs of War on Land*, The Hague, July 29, 1899, 32 Statute II, 1817.

87. *New York Times*, July 29, 1935.

in vain to the League to bring about an agreement in the exchange of prisoners.

On October 2, in Buenos Aires, the two countries agreed to establish an international commission of three to fix war responsibility by a majority vote within a period of fifteen months from its formation. Bolivia and Paraguay were each to select one member of the commission, and the United States was to name the third from one of its highest courts. If the decision of this commission, which was to be constituted by January 2, was not acceptable to both parties, the question was to be referred to the Permanent Court.⁹⁶ Disagreement over the draft treaty, presented the following week, prevented formation of the commission.

On October 10 the conference reconvened in plenary session, and five days later presented a draft treaty to Bolivia and Paraguay, both of whom rejected it. This treaty provided for the establishment of a frontier dividing the Chaco; a demilitarized zone of 18 miles on each side of the frontier; a non-aggression pact and agreement to arbitrate any differences arising from treaty interpretation. It further stipulated that Bolivia should be allowed a free port, Puerto Casado, on the Paraguay river, and be assured the use of the Casado railroad and roads from the port to the frontier—a distance of about 200 miles. Paraguay was given the larger part of the Chaco.⁹⁷ Although the treaty was rejected, each country made counter-proposals upon which further negotiations could be based.⁹⁸

A re-examination of the June Protocol by the mediators led to an announcement on October 28 that although no settlement of war guilt and territorial questions had yet been reached, the war itself had ended. The Neutral Military Commission reported that both armies had been reduced to 5,000 men each, that no more war materials had been purchased, and that both sides gave evidence of conforming to the pacific clauses in the Protocol.⁹⁹ Settlement of the territorial and war guilt questions, as well as that of exchange of prisoners, remained as far from solution as ever. The mediators held secret meetings, without the Bolivian and Paraguayan delegations, to attempt to find a way out; the principal delegates departed, leaving subordinates to carry on, and the conference developed into a stalemate.¹⁰⁰ The key to the deadlock was reported to lie in the internal political situations in the two countries. Fearing internal

difficulties, neither government dared make the concessions necessary for a definitive peace.

Shortly after Christmas Mr. Spruille Braden, an American delegate, conferred with President Ayala on exchange of prisoners, and succeeded in getting the Paraguayan Cabinet to consider the proposals made by the conference for immediate repatriation of all prisoners. On January 1, 1936 after continued negotiations, Bolivia and Paraguay accepted with a few changes the terms on repatriation of prisoners set forth in the conference's draft treaty of October 15. The protocol was formally signed on January 21, 1936, and dealt with exchange of prisoners. With respect to the other questions still in dispute, it simply referred to the provisions in the June Protocol. Both countries agreed to the Declaration of August 3, 1932 outlawing territorial conquest by force. They decided that the security measures¹⁰¹ contained in the June Protocol should remain in force pending final settlement of the substantive question and signature of a definitive treaty. The conference, or a commission, was designated to supervise the continued enforcement of these measures.

Exchange of prisoners was to begin one month after ratification of the Protocol by both Paraguay and Bolivia, and provision was made for their transportation. The Protocol also stipulated that diplomatic relations should be resumed in the shortest possible time, and that Bolivia and Paraguay secure ratification of this Protocol by their Congresses. Paraguay ratified the Protocol on February 7 and Bolivia the following day.¹⁰²

Thus the peace conference successfully put an end to the war, drew up a compromise protocol providing for exchange of prisoners, re-establishment of relations between Bolivia and Paraguay, and reiterated mutual guarantees against resumption of hostilities. The cause of conflict—sovereignty of the Chaco—has not yet been settled, and all discussion on that point was adjourned until after the Presidential elections, originally scheduled for May 1936 in both countries. Subsequent revolutions in Bolivia and Paraguay led to fears that negotiations over the territorial issue would not be consummated. After three years of war, peace was re-established in the Chaco in the summer of 1935, owing as much to military exhaustion as to outside mediation. The fundamental dispute between the two belligerents, however, remains unsolved.¹⁰³

100. *New York Times*, November 17, 1935.

101. I.e., no new purchases of war materials, an army of 5,000 men maximum, and a non-aggression agreement.

102. For text of the Protocol, cf. *Journal des Nations* (Geneva), February 18, 1936.

103. A forthcoming issue of *Foreign Policy Reports* will discuss the proposed Pan American Conference which will attempt to improve peace machinery in the light of the Chaco experience.

96. *Le Temps* (Paris), October 7, 1935.

97. League of Nations, *Official Journal*, December 1935, pp. 1648 ff.

98. *New York Times*, October 16, 1935.

99. *The Times*, October 30, 1935; League of Nations, *Official Journal*, December 1935, pp. 1650 ff.